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Annual report of the International Tribunal for the Law of the Sea for 2015

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3(d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2015.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea. It functions in accordance with the relevant provisions of parts XI and XV of the Convention, the Statute of the Tribunal, as contained in annex VI to the Convention, and the Rules of the Tribunal.

II. Organization of the Tribunal

3. The Tribunal is composed of 21 members elected by the States Parties to the Convention in the manner provided for in article 4 of the Statute.

4. On 18 May 2015, Judge Vicente Marotta Rangel (Brazil) resigned from the Tribunal. With his resignation, a vacancy occurred in the Tribunal. Taking this change into account, as at 31 December 2015, the composition of the Tribunal was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
Vladimir Vladimirovich Golitsyn	Russian Federation	30 September 2017
Vice-President		
Boualem Bouguetaia	Algeria	30 September 2017
Judges		
P. Chandrasekhara Rao	India	30 September 2017
Joseph Akl	Lebanon	30 September 2017
Rüdiger Wolfrum	Germany	30 September 2017
Tafsir Malick Ndiaye	Senegal	30 September 2020
José Luis Jesus	Cabo Verde	30 September 2017
Jean-Pierre Cot	France	30 September 2020
Anthony Amos Lucky	Trinidad and Tobago	30 September 2020
Stanislaw Pawlak	Poland	30 September 2023
Shunji Yanai	Japan	30 September 2023
James Kateka	United Republic of Tanzania	30 September 2023
Albert Hoffmann	South Africa	30 September 2023

Order of precedence	*Country*	*Date of expiry of term of office*
Zhiguo Gao	China	30 September 2020
Jin-Hyun Paik	Republic of Korea	30 September 2023
Elsa Kelly	Argentina	30 September 2020
David Joseph Attard	Malta	30 September 2020
Markiyan Z. Kulyk	Ukraine	30 September 2020
Alonso Gómez-Robledo Verduzco	Mexico	30 September 2023
Tomas Heidar	Iceland	30 September 2023

5. The Registrar of the Tribunal is Philippe Gautier (Belgium). The Deputy Registrar is Doo-young Kim (Republic of Korea).

6. Acting pursuant to article 6, paragraph 1, of the Statute, the Registrar, in a note verbale dated 11 June 2015, informed States parties to the Convention of the vacancy which had occurred in the Tribunal owing to the resignation of Judge Marotta Rangel and invited Governments of States parties to submit, between 1 July and 31 August 2015, the names of candidates they might wish to nominate for membership on the Tribunal. By that note verbale, the Registrar informed the States parties that the member elected to replace Judge Marotta Rangel would serve for the remainder of his term, namely, until 30 September 2017.

7. In a note verbale dated 1 October 2015, the Registrar further informed the States parties that the President of the Tribunal, in accordance with article 6, paragraph 1, of the Statute, had decided that the election to fill the vacancy created by the resignation of Judge Marotta Rangel for the remainder of the term for which he had been elected would take place on 15 January 2016.[1]

III. Chambers

A. Seabed Disputes Chamber

8. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the Tribunal from among its elected members. The members of the Chamber are selected triennially and, as at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Jesus, President; Judges Akl, Ndiaye, Cot, Lucky, Pawlak, Yanai, Kateka, Paik, Kelly and Attard, members.

9. The terms of office of the members of the Chamber expire on 30 September 2017.

[1] On 15 January 2016, at a special meeting of States parties, Judge Antonio Cachapuz de Medeiros (Brazil) was elected a member of the Tribunal, for the period ending on 30 September 2017.

B. Special chambers

1. Chamber of Summary Procedure

10. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber.

11. The Chamber is constituted annually. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Golitsyn, President; Vice-President Bouguetaia and Judges Chandrasekhara Rao, Wolfrum and Jesus, members; Judges Cot and Attard, alternates.

2. Chamber for Fisheries Disputes

12. On 20 February 1997, the Tribunal established the Chamber for Fisheries Disputes in accordance with article 15, paragraph 1, of the Statute. On 18 May 2015, a vacancy occurred in the Chamber owing to the resignation of Judge Marotta Rangel. Taking this change into account, as at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Lucky, President; Judges Wolfrum, Ndiaye, Yanai, Kateka, Gao, Kulyk and Heidar, members.

13. The terms of office of the members of the Chamber expire on 30 September 2017.

3. Chamber for Marine Environment Disputes

14. On 20 February 1997, the Tribunal established the Chamber for Marine Environment Disputes in accordance with article 15, paragraph 1, of the Statute. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Kateka, President; Judges Pawlak, Hoffmann, Gao, Paik, Kelly, Attard, Kulyk and Gómez-Robledo, members.

15. The terms of office of the members of the Chamber expire on 30 September 2017.

4. Chamber for Maritime Delimitation Disputes

16. On 16 March 2007, the Tribunal established the Chamber for Maritime Delimitation Disputes in accordance with article 15, paragraph 1, of the Statute. As at 31 December 2015, the composition of the Chamber, in order of precedence, was as follows: Judge Golitsyn, President; Vice-President Bouguetaia and Judges Chandrasekhara Rao, Wolfrum, Ndiaye, Jesus, Yanai, Hoffmann, Gao, Gómez-Robledo and Heidar, members.

17. The terms of office of the members of the Chamber expire on 30 September 2017.

5. Chamber under article 15, paragraph 2, of the Statute

18. Article 15, paragraph 2, of the Statute provides that the Tribunal shall form a chamber for dealing with a particular dispute, if the parties so request. The

composition of such a chamber is determined by the Tribunal with the approval of the parties in the manner provided for in article 30 of the Rules.

19. By a special agreement concluded on 3 December 2014, Ghana and Côte d'Ivoire agreed to submit the dispute concerning the delimitation of their maritime boundary in the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to article 15, paragraph 2, of the Statute. In the special agreement, Ghana and Côte d'Ivoire conveyed their views regarding the composition of the Special Chamber of the Tribunal and agreed that it would include two judges ad hoc: Thomas Mensah, chosen by Ghana, and Ronny Abraham, chosen by Côte d'Ivoire.

20. By an order dated 12 January 2015, the Tribunal decided to accede to the request of Ghana and Côte d'Ivoire to form a Special Chamber of five judges to deal with the case.

21. The composition of the Special Chamber to deal with the case is as follows: Vice-President Bouguetaia, President; Judges Wolfrum and Paik and Judges ad hoc Mensah and Abraham, members.

IV. Committees

22. During the fortieth session, on 29 September 2015, the Tribunal reconstituted its committees. The composition is as follows.[2]

A. Committee on Budget and Finance

23. The members of the Committee on Budget and Finance are: Judge Akl, Chairman; Judges Jesus, Cot, Yanai, Hoffmann, Gao, Kelly, Attard, and Kulyk, members.

B. Committee on Rules and Judicial Practice

24. The members of the Committee on Rules and Judicial Practice are: President Golitsyn, Chairman; Vice-President Bouguetaia, Judges Chandrasekhara Rao, Wolfrum, Ndiaye, Jesus (ex officio member as President of the Seabed Disputes Chamber), Cot, Pawlak, Yanai, Kateka, Hoffmann and Gómez-Robledo, members.

C. Committee on Staff and Administration

25. The members of the Committee on Staff and Administration are: Judge Paik, Chairman; Judges Wolfrum, Jesus, Lucky, Pawlak, Yanai and Attard, members.

[2] For the terms of reference of the committees, see SPLOS/27, paras. 37-40; SPLOS/50, paras. 36-37; and SPLOS/136, para. 46.

D. Committee on Library, Archives and Publications

26. The members of the Committee on Library, Archives and Publications are: Judge Wolfrum, Chairman; Judges Ndiaye, Pawlak, Paik, Kelly, Attard, Kulyk and Gómez-Robledo, members.

E. Committee on Buildings and Electronic Systems

27. The members of the Committee on Buildings and Electronic Systems are: Judge Kulyk, Chairman; Judges Cot, Lucky, Gao and Heidar, members.

F. Committee on Public Relations

28. The members of the Committee on Public Relations are: Judge Gao, Chairman; Judges Chandrasekhara Rao, Akl, Jesus, Kateka, Kelly, Gómez-Robledo and Heidar, members.

V. Meetings of the Tribunal

29. In 2015, judicial meetings of the Tribunal took place as follows:

(a) Case No. 21 on the list of cases of the Tribunal (advisory opinion):

Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)

The Tribunal met from 12 to 22 January, from 23 February to 6 March and on 31 March 2015 to consider and adopt the draft advisory opinion. The Tribunal delivered its advisory opinion on 2 April 2015.

(b) Case No. 23 on the list of cases of the Tribunal (merits):

Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)

The special chamber of the Tribunal formed to deal with the case met from 28 March to 2 April and on 18, 24 and 25 April 2015 to consider a request for the prescription of provisional measures submitted by Côte d'Ivoire on 27 February 2015. The special chamber delivered its order on 25 April 2015.

(c) Case No. 24 on the list of cases of the Tribunal (urgent proceedings):

The "Enrica Lexie" Incident (Italy v. India), Provisional Measures

The Tribunal met from 8 to 21 August 2015 to deal with urgent proceedings instituted by Italy on 21 July 2015. The Tribunal delivered its order on 24 August 2015.

30. The Tribunal also held two sessions devoted to legal and judicial matters as well as organizational and administrative matters: the thirty-ninth session was held from 9 to 20 March 2015 and the fortieth session from 21 September to 2 October 2015.

31. The Tribunal decided to hold its forty-first session from 7 to 18 March 2016 to deal with legal matters having a bearing on the judicial work of the Tribunal and with organizational and administrative matters.

VI. Judicial work of the Tribunal

A. *Request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC)*

32. The Sub-Regional Fisheries Commission (SRFC) is a regional fisheries organization composed of seven member States: Cabo Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone. By a resolution adopted by the Conference of Ministers of the Sub-Regional Fisheries Commission at its fourteenth session, held on 27 and 28 March 2013, the Conference of Ministers decided, in accordance with article 33 of the 2012 Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the Sub-Regional Fisheries Commission (MCA Convention), to authorize the Permanent Secretary of the Commission to submit a request for an advisory opinion to the Tribunal, pursuant to article 138 of the Rules.

33. On 28 March 2013, the Permanent Secretary of the Sub-Regional Fisheries Commission transmitted to the Tribunal a request for an advisory opinion on the following questions:

(1) What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the exclusive economic zone of third party States?

(2) To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?

(3) Where a fishing licence is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?

(4) What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

34. The request was received by the Tribunal on 28 March 2013 and entered in the list of cases of the Tribunal as case No. 21.

35. On 24 May 2013, the Tribunal adopted an order and fixed 29 November 2013 as the time limit for the presentation of written statements. The time limit was extended to 19 December 2013 by an order of the President dated 3 December 2013.

36. Within this time limit, written statements were filed by the following States parties to the Convention, which are listed in chronological order by date of submission: Saudi Arabia, Germany, New Zealand, China, Somalia, Ireland, Federated States of Micronesia, Australia, Japan, Portugal, Chile, Argentina, United Kingdom of Great Britain and Northern Ireland, Thailand, Netherlands, European

Union, Cuba, France, Spain, Montenegro, Switzerland and Sri Lanka. Within the same time limit, written statements were also submitted by SRFC and the following six organizations, which are listed in chronological order by date of submission: Forum Fisheries Agency, International Union for Conservation of Nature, Caribbean Regional Fisheries Mechanism, United Nations, Food and Agriculture Organization of the United Nations and Central American Fisheries and Aquaculture Organization. Those written statements were made accessible to the public on the Tribunal's website.

37. A statement by a State not party to the Convention (United States of America) was submitted to the Tribunal. The Tribunal decided that this statement should be considered as part of the case file and should be posted on the Tribunal's website, in a separate section of documents related to the case, entitled "States parties to the 1995 Straddling Fish Stocks Agreement".

38. In addition, a statement was submitted by an international non-governmental organization (World Wide Fund for Nature), which was informed by the Registrar, in a letter dated 4 December 2013, that its statement would not be considered part of the case file, but would be placed on the Tribunal's website in a separate section of documents relating to the case.

39. By an order dated 20 December 2013, the President fixed 14 March 2014 as the time limit within which States parties to the Convention and intergovernmental organizations having presented written statements could submit written statements on the statements made.

40. Within this time limit, additional written statements were submitted by the following States parties, which are listed in chronological order by date of submission: United Kingdom, New Zealand, European Union, Netherlands and Thailand. Within the same time limit, an additional written statement was also submitted by SRFC. All the statements were posted on the website of the Tribunal.

41. In addition, a statement was submitted by the World Wide Fund for Nature, which was informed by the Registrar, in a letter dated 20 March 2014, that its statement would not be included in the case file but would be placed on the Tribunal's website in a separate section of documents relating to the case.

42. By an order dated 14 April 2014, the President fixed 2 September 2014 as the date for the opening of the oral proceedings and invited the States parties, SRFC and the intergovernmental organizations listed in the annex to the order of the Tribunal of 24 May 2013 to participate in the proceedings.

43. Prior to the opening of the oral proceedings, the Tribunal held initial deliberations on 29 August and 1 September 2014.

44. The hearing took place from 2 to 5 September 2014, during which statements were made at four public sittings by States parties and international organizations in the following order: SRFC, Germany, Argentina, Australia, Chile, Spain, Federated States of Micronesia, New Zealand, United Kingdom, Thailand, European Union, Caribbean Regional Fisheries Mechanism and International Union for Conservation of Nature.

45. The Tribunal delivered its advisory opinion on 2 April 2015. It decided that it had jurisdiction to give the advisory opinion requested by SRFC and that, in the

case before it, its jurisdiction was limited to the exclusive economic zones of the SRFC member States. The Tribunal decided to respond to the request.

46. The replies to the questions submitted by SRFC as contained in the operative clauses of the advisory opinion (para. 219) are reproduced below:

> THE TRIBUNAL,
>
> ...
>
> ***Replies* to the first question as follows:**
>
> The flag State has the obligation to take necessary measures, including those of enforcement, to ensure compliance by vessels flying its flag with the laws and regulations enacted by the SRFC Member States concerning marine living resources within their exclusive economic zones for purposes of conservation and management of these resources.
>
> The flag State is under an obligation, in light of the provisions of article 58, paragraph 3, article 62, paragraph 4, and article 192 of the Convention, to take the necessary measures to ensure that vessels flying its flag are not engaged in IUU fishing activities as defined in the MCA Convention within the exclusive economic zones of the SRFC Member States.
>
> The flag State, in fulfilment of its obligation to effectively exercise jurisdiction and control in administrative matters under article 94 of the Convention, has the obligation to adopt the necessary administrative measures to ensure that fishing vessels flying its flag are not involved in activities in the exclusive economic zones of the SRFC Member States which undermine the flag State's responsibility under article 192 of the Convention for protecting and preserving the marine environment and conserving the marine living resources which are an integral element of the marine environment.
>
> The foregoing obligations are obligations of "due diligence".
>
> The flag State and the SRFC Member States are under an obligation to cooperate in cases related to IUU fishing by vessels of the flag State in the exclusive economic zones of the SRFC Member States concerned.
>
> The flag State, in cases where it receives a report from an SRFC Member State alleging that a vessel or vessels flying its flag have been involved in IUU fishing within the exclusive economic zone of that SRFC Member State, has the obligation to investigate the matter and, if appropriate, take any action necessary to remedy the situation, and to inform the SRFC Member State of that action.
>
> ...
>
> ***Replies* to the second question as follows:**
>
> The liability of the flag State does not arise from a failure of vessels flying its flag to comply with the laws and regulations of the SRFC Member States concerning IUU fishing activities in their exclusive economic zones, as the violation of such laws and regulations by vessels is not per se attributable to the flag State.

The liability of the flag State arises from its failure to comply with its "due diligence" obligations concerning IUU fishing activities conducted by vessels flying its flag in the exclusive economic zones of the SRFC Member States.

The SRFC Member States may hold liable the flag State of a vessel conducting IUU fishing activities in their exclusive economic zones for a breach, attributable to the flag State, of its international obligations, referred to in the reply to the first question.

The flag State is not liable if it has taken all necessary and appropriate measures to meet its "due diligence" obligations to ensure that vessels flying its flag do not conduct IUU fishing activities in the exclusive economic zones of the SRFC Member States.

...

***Replies* to the third question as follows:**

The question only relates to those international organizations, referred to in articles 305, paragraph 1(f), and 306 of the Convention, and Annex IX to the Convention, to which their member States, which are parties to the Convention, have transferred competence over matters governed by it; in the present case the matter in question is fisheries. At present, the only such international organization is the European Union to which the member States, which are parties to the Convention, have transferred competence with regard to "the conservation and management of sea fishing resources".

In cases where an international organization, in the exercise of its exclusive competence in fisheries matters, concludes a fisheries access agreement with an SRFC Member State, which provides for access by vessels flying the flag of its member States to fish in the exclusive economic zone of that State, the obligations of the flag State become the obligations of the international organization. The international organization, as the only contracting party to the fisheries access agreement with the SRFC Member State, must therefore ensure that vessels flying the flag of a member State comply with the fisheries laws and regulations of the SRFC Member State and do not conduct IUU fishing activities within the exclusive economic zone of that State.

Accordingly, only the international organization may be held liable for any breach of its obligations arising from the fisheries access agreement, and not its member States. Therefore, if the international organization does not meet its "due diligence" obligations, the SFRC Member States may hold the international organization liable for the violation of their fisheries laws and regulations by a vessel flying the flag of a member State of that organization and fishing in the exclusive economic zones of the SRFC Member States within the framework of a fisheries access agreement between that organization and such Member States.

The SRFC Member States may, pursuant to article 6, paragraph 2, of Annex IX to the Convention, request an international organization or its member States which are parties to the Convention for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned must provide this information. Failure to do so within a reasonable time or the provision of contradictory information results

in joint and several liability of the international organization and the member States concerned.

...

***Replies* to the fourth question as follows:**

In the case of stocks referred to in article 63, paragraph 1, of the Convention, the SRFC Member States have the right to seek to agree, either directly or through appropriate subregional or regional organizations, with other SRFC Member States in whose exclusive economic zones these stocks occur upon the measures necessary to coordinate and ensure the conservation and development of such stocks.

Under the Convention, the SRFC Member States have the obligation to ensure the sustainable management of shared stocks while these stocks occur in their exclusive economic zones; this includes the following:

(i) the obligation to cooperate, as appropriate, with the competent international organizations, whether subregional, regional or global, to ensure through proper conservation and management measures that the maintenance of the shared stocks in the exclusive economic zone is not endangered by overexploitation (see article 61, paragraph 2, of the Convention);

(ii) in relation to the same stock or stocks of associated species which occur within the exclusive economic zones of two or more SRFC Member States, the obligation to "seek ... to agree upon the measures necessary to coordinate and ensure the conservation and development of such stocks" (article 63, paragraph 1, of the Convention);

(iii) in relation to tuna species, the obligation to cooperate directly or through the SRFC with a view to ensuring conservation and promoting the objective of optimum utilization of such species in their exclusive economic zones (see article 64, paragraph 1, of the Convention). The measures taken pursuant to such obligation should be consistent and compatible with those taken by the appropriate regional organization, namely the International Commission for the Conservation of Atlantic Tunas, throughout the region, both within and beyond the exclusive economic zones of the SRFC Member States.

...

The obligation to "seek to agree ..." under article 63, paragraph 1, and the obligation to cooperate under article 64, paragraph 1, of the Convention are "due diligence" obligations which require the States concerned to consult with one another in good faith, pursuant to article 300 of the Convention. The consultations should be meaningful in the sense that substantial effort should be made by all States concerned, with a view to adopting effective measures necessary to coordinate and ensure the conservation and development of shared stocks.

The conservation and development of shared stocks in the exclusive economic zone of an SRFC Member State require from that State effective measures aimed at preventing over-exploitation of such stocks that could undermine their sustainable exploitation and the interests of neighbouring Member States.

In light of the foregoing, the SRFC Member States fishing in their exclusive economic zones for shared stocks which also occur in the exclusive economic zones of other Member States must consult each other when setting up management measures for those shared stocks to coordinate and ensure the conservation and development of such stocks. Such management measures are also required in respect of fishing for those stocks by vessels flying the flag of non-Member States.

Cooperation between the States concerned on issues pertaining to the conservation and management of shared fisheries resources, as well as the promotion of the optimum utilization of those resources, is a well-established principle in the Convention. This principle is reflected in several articles of the Convention, namely articles 61, 63 and 64.

Fisheries conservation and management measures, to be effective, should concern the whole stock unit over its entire area of distribution or migration routes. Fish stocks, in particular the stocks of small pelagic species and tuna, shared by the SRFC Member States in their exclusive economic zones are also shared by several other States bordering the Atlantic Ocean. The Tribunal, however, has limited its examination and conclusions to the shared stocks in the exclusive economic zones of the SRFC Member States, constrained as it is by the limited scope of its jurisdiction in the present case.

In exercising their rights and performing their duties under the Convention in their respective exclusive economic zones, the SRFC Member States and other States Parties to the Convention must have due regard to the rights and duties of one another. This flows from articles 56, paragraph 2, and 58, paragraph 3, of the Convention and from the States Parties' obligation to protect and preserve the marine environment, a fundamental principle underlined in articles 192 and 193 of the Convention and referred to in the fourth paragraph of its preamble. Living resources and marine life are part of the marine environment and, as stated in the *Southern Bluefin Tuna Cases*, "the conservation of the living resources of the sea is an element in the protection and preservation of the marine environment".

Although, in the present case, the jurisdiction of the Tribunal is limited to the area of application of the MCA Convention, in the case of fish stocks that occur both within the exclusive economic zones of the SRFC Member States and in an area beyond and adjacent to these zones, these States and the States fishing for such stocks in the adjacent area are required, under article 63, paragraph 2, of the Convention, to seek to agree upon the measures necessary for the conservation of those stocks in the adjacent area.

With respect to tuna species, the SRFC Member States have the right, under article 64, paragraph 1, of the Convention, to require cooperation from non-member States whose nationals fish for tuna in the region, "directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species".

B. *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*

47. During consultations held by the President of the Tribunal with representatives of Ghana and Côte d'Ivoire on 2 and 3 December 2014, a special agreement was concluded between the two States on 3 December 2014 to submit the dispute concerning the delimitation of their maritime boundary in the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to article 15, paragraph 2, of the Statute. An original copy of the special agreement was delivered to the Registry on 3 December 2014, which constituted the notification required under article 55 of the Rules. The case was entered in the Tribunal's list of cases as case No. 23.

48. By an order dated 12 January 2015, the Tribunal decided to accede to the request of the parties to form a Special Chamber to deal with the case and determined the composition of the Special Chamber with their approval.[3] By the same order, the Tribunal decided that the written proceedings would consist of a memorial presented by Ghana and a counter-memorial presented by Côte d'Ivoire, and that the Special Chamber might authorize or direct the presentation of a reply by Ghana and a rejoinder by Côte d'Ivoire, if the Special Chamber decided, at the request of a party or *proprio motu*, that these pleadings were necessary.

49. On 18 February 2015, the President of the Special Chamber held consultations with the representatives of the parties in order to ascertain their views with regard to questions of procedure.

50. On 24 February 2015, further to the agreement of the parties, the President of the Special Chamber adopted an order fixing 4 September 2015 as the time limit for the filing of the memorial by Ghana, 4 April 2016 as the time limit for the filing of the counter-memorial by Côte d'Ivoire, and, should the Special Chamber find it necessary to authorize the presentation of a reply and a rejoinder, 4 July 2016 as the time limit for the filing of the reply by Ghana and 4 October 2016 as the time limit for the filing of the rejoinder by Côte d'Ivoire. The memorial was filed within the time limit so prescribed.

51. On 27 February 2015, Côte d'Ivoire filed a request for the prescription of provisional measures by the Special Chamber in accordance with article 290, paragraph 1, of the Convention.

52. By an order dated 6 March 2015, after having ascertained the views of the parties, the President fixed 29 March 2015 as the date for the opening of the hearing.

53. Ghana filed its written statement with the Special Chamber on 23 March 2015.

54. Prior to the opening of the hearing, the Special Chamber held initial deliberations on 28 March 2015.

55. Oral statements were presented at four public sittings held on 29 and 30 March 2015.

[3] For the composition of the special chamber, see para. 21.

56. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions at the hearing on 30 March 2015:

On behalf of Côte d'Ivoire:

> Côte d'Ivoire requests the Special Chamber to prescribe provisional measures requiring Ghana to:
>
> - take all steps to suspend all ongoing oil exploration and exploitation operations in the disputed area;
> - refrain from granting any new permit for oil exploration and exploitation in the disputed area;
> - take all steps necessary to prevent information resulting from past, ongoing or future exploration activities conducted by Ghana, or with its authorization, in the disputed area from being used in any way whatsoever to the detriment of Côte d'Ivoire;
> - and, generally, take all necessary steps to preserve the continental shelf, its superjacent waters and its subsoil; and
> - desist and refrain from any unilateral action entailing a risk of prejudice to the rights of Côte d'Ivoire and any unilateral action that might lead to aggravating the dispute.

On behalf of Ghana:

> Ghana requests the Special Chamber to deny all of Côte d'Ivoire's requests for provisional measures.

57. The Special Chamber delivered its order unanimously on 25 April 2015.

58. In its order, the Special Chamber found that it had prima facie jurisdiction over the dispute (para. 38). While noting that the power to prescribe provisional measures under article 290, paragraph 1, of the Convention "has as its object the preservation of the respective rights of the parties to the dispute or the prevention of serious harm to the marine environment pending the final decision" (para. 39), the Special Chamber observed, however, that it "may not prescribe provisional measures unless it finds that there is 'a real and imminent risk that irreparable prejudice may be caused to the rights of the parties in dispute'" (para. 41). It also considered that "urgency is required in order to exercise the power to prescribe provisional measures, that is to say the need to avert a real and imminent risk that irreparable prejudice may be caused to rights at issue before the final decision is delivered" (para. 42).

59. Concerning "the rights which Côte d'Ivoire claims on the merits and seeks to protect", the Special Chamber stated that, before prescribing provisional measures, it need only satisfy itself that these rights "are at least plausible" (para. 58) and found that "Côte d'Ivoire has presented enough material to show that the rights it seeks to protect in the disputed area are plausible" (para. 62).

60. As regards the request by Côte d'Ivoire for provisional measures to prevent serious harm to the marine environment, the Special Chamber found that "Côte d'Ivoire has not adduced sufficient evidence to support its allegations that the activities conducted by Ghana in the disputed area are such as to create an imminent risk of serious harm to the marine environment" (para. 67). It underlined, however,

that the risk of serious harm to the marine environment was of great concern to it (para. 68) and that the parties should in the circumstances "act with prudence and caution to prevent serious harm to the marine environment" (para. 72).

61. The Special Chamber noted that "there is a risk of irreparable prejudice where, in particular, activities result in significant and permanent modification of the physical character of the area in dispute and where such modification cannot be fully compensated by financial reparations" (para. 89) and that "whatever its nature, any compensation awarded would never be able to restore the status quo ante in respect of the seabed and subsoil" (para. 90). It added that "this situation may affect the rights of Côte d'Ivoire in an irreversible manner if the Special Chamber were to find in its decision on the merits that all or any part of the area in dispute belongs to Côte d'Ivoire" (para. 91). The Special Chamber therefore considered that "the exploration and exploitation activities, as planned by Ghana, may cause irreparable prejudice to the sovereign and exclusive rights invoked by Côte d'Ivoire in the continental shelf and superjacent waters of the disputed area, before a decision on the merits is given by the Special Chamber, and that the risk of such prejudice is imminent" (para. 96).

62. The Special Chamber was of the view that "the suspension of ongoing activities conducted by Ghana in respect of which drilling has already taken place would entail the risk of considerable financial loss to Ghana and its concessionaires and could also pose a serious danger to the marine environment resulting, in particular, from the deterioration of equipment (para. 99). It therefore considered that an order suspending all exploration or exploitation activities conducted by or on behalf of Ghana in the disputed area, including activities in respect of which drilling has already taken place, would cause prejudice to the rights claimed by Ghana and create an undue burden on it and that such an order could also cause harm to the marine environment (paras. 100 and 101). Thus, the Special Chamber considered it appropriate, "in order to preserve the rights of Côte d'Ivoire, to order Ghana to take all the necessary steps to ensure that no new drilling either by Ghana or under its control takes place in the disputed area" (para. 102).

63. For these reasons, the Special Chamber prescribed, pending the final decision, the following provisional measures under article 290, paragraph 1, of the Convention:

(a) Ghana shall take all necessary steps to ensure that no new drilling either by Ghana or under its control takes place in the disputed area ...;

(b) Ghana shall take all necessary steps to prevent information resulting from past, ongoing or future exploration activities conducted by Ghana, or with its authorization, in the disputed area that is not already in the public domain from being used in any way whatsoever to the detriment of Côte d'Ivoire;

(c) Ghana shall carry out strict and continuous monitoring of all activities undertaken by Ghana or with its authorization in the disputed area with a view to ensuring the prevention of serious harm to the marine environment;

(d) The parties shall take all necessary steps to prevent serious harm to the marine environment, including the continental shelf and its superjacent waters, in the disputed area and shall cooperate to that end;

(e) The parties shall pursue cooperation and refrain from any unilateral action that might lead to aggravating the dispute.

64. The Special Chamber further decided that Ghana and Côte d'Ivoire each had to submit an initial report not later than 25 May 2015 to the Special Chamber, and authorized the President of the Special Chamber to request such information as he may consider appropriate after that date. Each party submitted an initial report on the measures taken within the prescribed time limit.

C. *The "Enrica Lexie" Incident (Italy* v. *India), Provisional Measures*

65. On 26 June 2015, Italy instituted arbitration proceedings against India under annex VII to the Convention in a dispute concerning "an incident ... involving *the M/V Enrica Lexie*, an oil tanker flying the Italian flag, and India's subsequent exercise of jurisdiction over the incident".

66. Pending the constitution of the arbitral tribunal and after expiry of the two-week time limit provided for by article 290, paragraph 5, of the Convention, Italy, on 21 July 2015, submitted a request to the Tribunal for the prescription of provisional measures in respect of the dispute concerning the *Enrica Lexie* incident. The case was entered in the Tribunal's list of cases as case No. 24.

67. By an order dated 24 July 2015, after having ascertained the views of the parties, the President fixed 10 August 2015 as the date for the opening of the hearing.

68. Since the Tribunal did not include upon the bench a judge of Italian nationality, Italy chose Francesco Francioni to sit as judge ad hoc in this case, pursuant to article 17 of the Statute and article 19 of the Rules.

69. India filed with the Tribunal a statement in response on 6 August 2015.

70. Prior to the opening of the hearing, the Tribunal held initial deliberations on 8 August 2015.

71. Oral statements were presented at four public sittings held on 10 and 11 August 2015. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions at the hearing on 11 August 2015:

On behalf of Italy:

> Italy requests that the Tribunal prescribe the following provisional measures:
>
> (a) India shall refrain from taking or enforcing any judicial or administrative measures against Sergeant Massimiliano Latorre and Sergeant Salvatore Girone in connection with the *Enrica Lexie* incident, and from exercising any other form of jurisdiction over the *Enrica Lexie* incident; and
>
> (b) India shall take all measures necessary to ensure that restrictions on the liberty, security and movement of the marines be immediately lifted to enable Sergeant Girone to travel to and remain in Italy and Sergeant Latorre to remain in Italy throughout the duration of the proceedings before the annex VII tribunal.

On behalf of India:

> [T]he Republic of India requests the International Tribunal for the Law of the Sea to reject the submissions made by the Republic of Italy in its request for the prescription of provisional measures and [to] refuse prescription of any provisional measure[s] in the present case.

72. The Tribunal delivered its order on 24 August 2015.

73. In its order, the Tribunal noted that "both parties agree that there is a dispute between them on matters of fact and law relating to the *Enrica Lexie* incident" (para. 51). It observed that, at the stage of the provisional measures proceedings, it "must satisfy itself that any of the provisions invoked by the Applicant appear prima facie to afford a basis on which the jurisdiction of the annex VII arbitral tribunal might be founded" (para. 52). Having examined the positions of the parties, the Tribunal found that a dispute appeared to exist between the parties concerning the interpretation or application of the Convention (para. 53), and concluded that "the annex VII arbitral tribunal would prima facie have jurisdiction over the dispute" (para. 54).

74. In the light of the circumstances of the case, the Tribunal found that the requirements of article 283 of the Convention had been satisfied (para. 60). On the issue of exhaustion of local remedies (see article 295 of the Convention), the Tribunal was of the view that "since the very nature of the dispute concerns the exercise of jurisdiction over the *Enrica Lexie* incident, the issue of exhaustion of local remedies should not be addressed in the provisional measures phase" (para. 67). As regards the issue of whether there was an abuse of legal process within the meaning of article 294, paragraph 1, of the Convention, the Tribunal observed that "article 290 of the Convention applies independently of any other procedures that may have been instituted at the domestic level" (para. 73).

75. The Tribunal stated that in provisional measures proceedings, it "does not need to concern itself with the competing claims of the parties ... it needs only to satisfy itself that the rights which Italy and India claim and seek to protect are at least plausible" (para. 84). The Tribunal concluded that "both parties have sufficiently demonstrated that the rights they seek to protect regarding the *Enrica Lexie* are plausible" (para. 85).

76. The Tribunal observed that under article 290 of the Convention it "may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties, which implies that there is a real and imminent risk that irreparable prejudice could be caused to the rights of the parties to the dispute pending such a time when the annex VII arbitral tribunal to which the dispute has been submitted is in a position to modify, revoke or affirm the provisional measures" (para. 87). It concluded that "in the circumstances of the present case, continuation of court proceedings or initiation of new ones by either party will prejudice rights of the other party" (para. 106), and that this consideration "requires action on the part of the Tribunal to ensure that the respective rights of the parties are duly preserved" (para. 107).

77. The Tribunal noted that it was called upon to decide whether the provisional measures requested by Italy were "appropriate taking into account the facts of the case and the arguments advanced by the parties" (para. 109). Considering the conflicting arguments of the parties regarding the status of the two Italian marines,

the Tribunal concluded that the question of their status "relates to the issue of jurisdiction and cannot be decided by the Tribunal at the stage of provisional measures" (para. 113). It emphasized that the order must protect the rights of both parties and "must not prejudice any decision of the arbitral tribunal to be constituted under annex VII" (para. 125). Thus, the Tribunal considered that the two provisional measures requested by Italy, "if accepted, will not equally preserve the respective rights of both parties until the constitution of the annex VII arbitral tribunal" (para. 126). The Tribunal concluded that it "does not consider the two submissions by Italy to be appropriate and that, in accordance with article 89, paragraph 5, of the Rules, it may prescribe measures different in whole or in part from those requested" (para. 127).

78. The Tribunal found that it was appropriate for it to prescribe that "both Italy and India suspend all court proceedings and refrain from initiating new ones which might aggravate or extend the dispute submitted to the annex VII arbitral tribunal or might jeopardize or prejudice the carrying out of any decision which the arbitral tribunal may render" (para. 131). It also found that "since it will be for the annex VII arbitral tribunal to adjudicate the merits of the case, the Tribunal does not consider it appropriate to prescribe provisional measures in respect of the situation of the two marines because that touches upon issues related to the merits of the case" (para. 132).

79. In its order, the Tribunal reaffirmed its view that "considerations of humanity must apply in the law of the sea as they do in other areas of international law" (see para. 133).

80. The Tribunal prescribed, pending a decision by the annex VII arbitral tribunal, the following provisional measure under article 290, paragraph 5, of the Convention:

> Italy and India shall both suspend all court proceedings and shall refrain from initiating new ones which might aggravate or extend the dispute submitted to the annex VII arbitral tribunal or might jeopardize or prejudice the carrying out of any decision which the arbitral tribunal may render.

81. The Tribunal further decided that Italy and India each had to submit an initial report to the Tribunal not later than 24 September 2015, and authorized the President to request such information as he may consider appropriate after that date. Each party submitted an initial report on the measures taken within the prescribed time limit.

D. *The M/V "Norstar" Case (Panama v. Italy)*

82. On 17 December 2015, Panama filed with the Tribunal an application in a dispute with Italy regarding the arrest and detention of the *M/V "Norstar"*, a Panamanian-flagged vessel. In its application, Panama claims compensation from Italy for damage caused by the allegedly illegal arrest of the *M/V "Norstar"* by Spanish officials, at the request of Italy, in the bay of Palma de Mallorca on 24 September 1998. In support of its claim, Panama contends that Italy violated several provisions (inter alia, articles 33, 73 (3) and (4), 87, 111, 226 and 300) of the Convention, in particular the right of freedom of navigation.

83. The dispute has been submitted to the Tribunal pursuant to the declarations made by Panama and Italy under article 287 of the Convention. The case has been entered in the list of cases of the Tribunal as case No. 25.

VII. Appointment of arbitrators by the President of the Tribunal pursuant to article 3 of annex VII to the Convention

84. In accordance with article 3 of annex VII to the Convention, if the parties to a dispute are unable to agree on the appointment of one or more members of the arbitral tribunal to be appointed by common agreement, or on the appointment of the president of the arbitral tribunal, the President of the Tribunal shall make the necessary appointment(s) at the request of any party to the dispute and in consultation with the parties.

85. In the arbitral proceedings under annex VII of the Convention instituted by Italy against India in respect of the dispute concerning the *Enrica Lexie* incident, by a letter dated 8 September 2015, Italy requested the President of the Tribunal to appoint three members of the arbitral tribunal to be constituted and to name one among them to serve as the president of the arbitral tribunal under annex VII. Further to consultations with the parties, on 30 September 2015, Patrick L. Robinson (Jamaica), Jin-Hyun Paik (Republic of Korea) and Vladimir V. Golitsyn (Russian Federation) were appointed as arbitrators and Vladimir V. Golitsyn as president of the arbitral tribunal.

VIII. Legal matters

86. During the period under review, the Tribunal devoted part of its two sessions to the consideration of legal and judicial matters. In this respect, the Tribunal examined various legal issues of relevance to its jurisdiction, its Rules and its judicial procedures. This review was undertaken both by the Tribunal and by its chambers. Some of the main subjects considered are noted below.

A. Jurisdiction, Rules and judicial procedures of the Tribunal

1. Declarations made under articles 287 and 298 of the Convention

87. During the period under review, the Tribunal took note of the information presented by the Registry concerning the status of declarations made under articles 287 and 298 of the Convention.

2. Jurisdiction over fisheries disputes

88. During the period under review, the Tribunal considered, on the basis of an information paper prepared by the Registry, issues relating to its jurisdiction over fisheries disputes, in the light of article 297, paragraph 3, of the Convention.

3. Rules of the Tribunal

89. During the period under review, the Tribunal examined issues relating to the use of experts as provided for in the Convention and the Rules of the Tribunal, on

the basis of an information paper prepared by the Registry. It also considered matters relating to the implementation of article 133 of the Rules in advisory proceedings.

B. Recent developments in law of the sea matters

90. During the period under review, the Tribunal considered reports prepared by the Registry concerning recent developments in law of the sea matters, including recent judgments in maritime delimitation cases.

C. Chambers

91. During the period under review, the Chambers of the Tribunal held meetings in which they considered reports prepared by the Registry on matters falling within the scope of their competence.

IX. Agreement on Privileges and Immunities

92. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months as from 1 July 1997 (SPLOS/24, para. 27). The Agreement entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. At the closing date for signature, 21 States had signed the Agreement. As at 31 December 2015, 41 States had ratified or acceded to it.

X. Relations with the United Nations

93. At the 69th plenary meeting of the seventieth session of the General Assembly, on 8 December 2015, the President of the Tribunal delivered a statement under agenda item 79 (a), "Oceans and the law of the sea".[4] In his statement, the President highlighted the contribution made by the Tribunal to the peaceful settlement of disputes relating to the law of the sea. In this connection, he cited three decisions delivered in 2015, namely those in case Nos. 21, 23 and 24. The President emphasized the Tribunal's commitment to facilitating access to its procedures and conducting capacity-building programmes. He also provided information on the activities planned by the Tribunal to commemorate its twentieth anniversary.

94. During the period under review, the Tribunal approved the recommendations of the Committee on Staff and Administration to submit a proposal to the twenty-fifth Meeting of States Parties with a view to obtaining approval for the Tribunal to participate in the work of the International Civil Service Commission (see SPLOS/280, paras. 24-28). At the twenty-fifth Meeting of States Parties, it was agreed that the Tribunal should subscribe to the Statute of the Commission with

[4] The text of the statement is available on the Tribunal's website: http://www.itlos.org or http://www.tidm.org.

effect from 1 January 2016, on the understanding that the additional expenditure related thereto ($9,000 per annum) would be absorbed into the 2015-2016 budget (see SPLOS/287, para. 39).

XI. Relations with other organizations and bodies

95. On 26 and 27 January 2015, a delegation from the International Court of Justice visited the Tribunal. The delegation consisted of the President of the Court, five other judges of the Court and the Registrar of the Court. The delegation was welcomed by the President of the Tribunal, five other judges of the Tribunal and the Registrar of the Tribunal. During the visit, an exchange of views took place on various aspects of international law of interest to both the Tribunal and the Court.

XII. Headquarters Agreement

96. The Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany was signed on 14 December 2004. It defines the legal status of the Tribunal in Germany and regulates the relations between the Tribunal and the host country. In addition to its provisions, the terms and conditions under which the premises are made available to the Tribunal by Germany are established in the Agreement of 18 October 2000 between the Tribunal and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg.

97. During the period under review the Registry, in cooperation with the Federal Building Authorities of Germany, made several improvements to the Tribunal's equipment and systems, in particular as concerns the fire alarm system and the camera surveillance system.

98. Pursuant to article 1 of the Statute of the Tribunal, which provides that the "seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany" and that the "Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable", the Ministry of Law of Singapore and the President of the Tribunal signed a joint declaration on 31 August 2015 concerning the provision of facilities in the event that the Tribunal were to decide to hold oral proceedings in Singapore. The declaration provides that, "[w]henever the States parties to a dispute before a special chamber of the Tribunal propose that the special chamber sit or otherwise exercise its functions in Singapore, the Tribunal will give due consideration to such proposal" and that, "[s]ubject to the terms and conditions of [a] special arrangement to be concluded ... the Government of Singapore will provide appropriate facilities to the Tribunal whenever a special chamber of the Tribunal sits or otherwise exercises its functions in Singapore".

XIII. Finances

A. Budgetary matters

1. Budget of the Tribunal for 2017-2018

99. During the fortieth session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget of the Tribunal for the financial period 2017-2018 on the basis of draft proposals submitted by the Registrar.

2. Report on budgetary matters for the financial periods 2013-2014 and 2015-2016

100. At its thirty-ninth session, the Tribunal considered the report presented by the Registrar on budgetary matters for the financial periods 2013-2014 and 2015-2016. The report, which was submitted to the twenty-fifth Meeting of States Parties for consideration (SPLOS/280), included the following: the performance report for 2013-2014; a report on action taken pursuant to the decision of the twenty-fourth Meeting of States Parties concerning the budget of the Tribunal for 2015-2016; a report on action taken pursuant to the Financial Regulations of the Tribunal (the surrender of cash surplus from the financial period 2011-2012, the Tribunal's investments, the trust fund for the law of the sea, the Nippon Foundation trust fund and the China Institute of International Studies trust fund); and a proposal regarding the participation of the Tribunal in the International Civil Service Commission.

3. Cash flow situation

101. At its thirty-ninth and fortieth sessions, the Tribunal took note of the information presented by the Registrar concerning the cash flow situation of the Tribunal.

B. Status of contributions

102. As at 31 December 2015, 112 States parties had made contributions to the 2015-2016 budget, totalling €8,923,889, while 55 States parties had not made any payments with respect to their assessed contributions for 2015-2016. The balance of unpaid contributions with respect to the 2015-2016 budget was €519,211.

103. Furthermore, assessed contributions amounting to €815,572 in respect of the Tribunal's budgets for the financial periods 1996-1997 to 2013-2014 were still pending as at 31 December 2015.

104. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to €1,333,783 as at 31 December 2015. In July 2015, the Registrar sent the States parties notes verbales concerning their assessed contributions for the year 2016 of the Tribunal's 2015-2016 budget, and containing information about outstanding contributions to the previous budgets. In December 2015, the Registrar sent notes verbales to the States parties concerned, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Financial Regulations and Rules

105. The Financial Regulations of the Tribunal, adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004.[5]

106. The Financial Rules of the Tribunal were proposed by the Registrar pursuant to financial regulation 10.1(a). They were approved by the Tribunal at its seventeenth session and submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal, which, according to rule 114.1, became effective on 1 January 2005 (the Financial Regulations and Rules of the Tribunal are contained in document SPLOS/120).

107. Pursuant to financial regulation 12.1, the twenty-second Meeting of States Parties appointed Ernst & Young as the Tribunal's auditor for the financial periods 2013-2014 and 2015-2016.

D. Report of the auditor for 2013-2014

108. The results of the audit for the financial period 2013-2014 were presented by the Registrar at the thirty-ninth session of the Tribunal. The Committee on Budget and Finance noted the auditor's opinion that the financial statements for the financial period 2013-2014 had been drawn up, in all materials respects, in accordance with the Financial Regulations and Rules of the Tribunal. The Tribunal took note of the audit report for 2013-2014 (SPLOS/279) and requested that the report be submitted to the twenty-fifth Meeting of States Parties. The twenty-fifth Meeting of States Parties took note with satisfaction of the report of the external auditor (SPLOS/287, para. 29).

E. Trust funds and donations

109. On the basis of resolution 55/7 on "Oceans and the law of the sea" adopted by the General Assembly on 30 October 2000, a voluntary trust fund has been established by the Secretary-General to assist States in connection with disputes to be settled by the Tribunal. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, a contribution to the trust fund was made in 2015 by the Government of the Philippines and the financial statements of the trust fund showed a balance of $131,684 as at 31 December 2015.

110. In 2007, the Nippon Foundation provided a grant to fund the participation of fellows in a capacity-building and training programme on dispute settlement under the Convention. A trust fund was established by the Registrar for this purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. For the period 2007-2015, the Nippon Foundation made nine contributions to the grant. As at 31 December 2015, the balance of total reserves stood at €267,696.

111. In 2010, pursuant to a decision of the Tribunal at its twenty-eighth session, the Registrar established a trust fund for the law of the sea, the terms of reference of which were adopted by the Tribunal and submitted for consideration to the twentieth

[5] Financial Regulations, regulation 14.1.

Meeting of States Parties. The trust fund is intended to promote human resource development in developing countries in the law of the sea and maritime affairs in general. Contributions made to the trust fund are used to provide applicants from developing countries with financial assistance to enable them to participate in the Tribunal's internship programme and the summer academy. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make voluntary financial or other contributions to the trust fund. Thus far, six contributions have been made to the trust fund to support the internship programme. They are as follows: €25,000 in April 2010 by a company from the Republic of Korea operating in Hamburg; and five contributions in the amount of €15,000 by the Korea Maritime Institute, in October 2011, December 2012, October 2013, December 2014 and December 2015, respectively. In August 2014 and August 2015, the Institute made additional contributions to the fund, in the amounts of €20,000 and €31,000, respectively, to be used for the regional workshops held in Nairobi and in Bali, Indonesia. As at 31 December 2015, the balance of total reserves stood at €44,276.

112. In 2012, the China Institute of International Studies provided a grant, in the amount of €100,000, to finance training activities of the Tribunal, including regional workshops, and to provide grants to participants from developing countries in the internship programme and the summer academy. A trust fund was established by the Registrar for that purpose, pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. As at 31 December 2015, the balance of total reserves stood at €15,710.

113. In 2015, at its fortieth session, the Tribunal approved the terms of reference for a new trust fund, which has been established by the Registrar pursuant to regulation 6.5 of the Financial Regulations of the Tribunal. The trust fund is intended to finance events and activities organized by the Tribunal for the purpose of celebrating its twentieth anniversary and disseminating information on its role in the settlement of disputes relating to the law of the sea. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make financial or other contributions to the fund.

XIV. Administrative matters

114. During the period under review, the committees of the Tribunal considered various administrative matters within the scope of their activities. Reference is made to some of them in the subsequent paragraphs.

A. Staff Regulations and Staff Rules

115. During the period under review, the Tribunal approved the recommendations of the Committee on Staff and Administration to adopt amendments to the Staff Regulations concerning the salary scale for staff in the Professional and higher categories. The amendments were intended to ensure compatibility of the Staff Regulations of the Tribunal with the United Nations common system of salaries, allowances and benefits, pursuant to regulation 12.6 of the Staff Regulations.

116. During the period under review, in the light of the recommendation of the Committee on Staff and Administration, the Tribunal took note of the amendments proposed to the Staff Rules of the Tribunal concerning the salary scale for staff in the General Service category. Pursuant to regulations 12.2, 12.3 and 12.4 of the Staff Regulations, the amendments to the Staff Rules which had been provisional entered into full force and effect on 1 January 2016.

B. Staff recruitment

117. In 2015, the Tribunal recruited staff members for the posts of Translator/Reviser (P-4), Legal Officer (P-3), Administrative Officer (P-2), Legal Assistant (G-6), Finance Assistant (G-6) and Finance Assistant (G-5).

118. At the end of 2015, recruitment was in progress with respect to the posts of Head of Linguistic Services (P-5), Associate Legal Officer (P-2) and Personal Assistant (President) (G-6).

119. A list of the staff members of the Registry as at 31 December 2015 is contained in annex I to the present report.

120. Temporary personnel were recruited to assist the Tribunal during its thirty-ninth and fortieth sessions and during the hearings and deliberations on case Nos. 21, 23 and 24.

121. The staff of the Registry consists of 38 staff members, of whom 18 are in the Professional and higher categories. The recruitment of staff members in the Professional category, excluding language staff, is subject to the principle of equitable geographical distribution, in accordance with regulation 4.2 of the Staff Regulations. That regulation provides as follows:

> The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Taking into account the small number of staff in the Registry of the Tribunal, a flexible regional approach has been followed in this regard.

122. The Tribunal has taken steps to ensure that vacancy announcements are disseminated in such a way as to recruit staff on as wide a geographical basis as possible. Information on vacancies is transmitted to the embassies in Berlin of the States parties to the Convention, and to the permanent missions in New York. The information is also posted on the Tribunal's website and published in the press.

123. The Tribunal applies, mutatis mutandis, the recruitment procedures followed by the United Nations. In accordance with those procedures, the principle of geographical distribution does not apply to the recruitment of General Service staff. However, the Tribunal has also made efforts to recruit General Service staff on as wide a geographical basis as possible.

C. Staff Pension Committee

124. Further to the proposal of the Tribunal, the sixteenth Meeting of States Parties decided that a Staff Pension Committee should be established with the following composition: (a) one member and one alternate member to be chosen by the Meeting; (b) one member and one alternate member to be appointed by the Registrar; and (c) one member and one alternate member to be elected by the staff. The term of office of members and alternates is three years.

D. Language classes at the Tribunal

125. English and French classes for Registry staff members were held in 2015.

XV. Buildings and electronic systems

A. Building arrangements and new requirements

126. During the thirty-ninth and fortieth sessions, the Registrar presented reports on building arrangements and use of the Tribunal's premises. These reports were reviewed by the Committee on Buildings and Electronic Systems with a view to improving the working conditions of the Tribunal.

B. Use of the premises and public access

127. The following events took place on the premises of the Tribunal during 2015:

(a) Maritime Talks, organized by the International Foundation for the Law of the Sea, 14 March 2015;

(b) International Foundation for the Law of the Sea summer academy, 26 July to 21 August 2015;

(c) Meeting of United Nations Librarians, 26 to 28 August 2015;

(d) Annual General Meeting of the German Federal Bar, 18 September 2015;

(e) Presentation of *Liber Amicorum* for Judge Hugo Caminos, 21 September 2015.

128. In addition, some 1,800 visitors took part in organized tours of the premises of the Tribunal in 2015.

XVI. Library facilities and archives

129. During the thirty-ninth and fortieth sessions, the Registrar reported on several matters pertaining to the Library, including the collections and an integrated library management system. He also presented reports on the archive collections and databases.

130. A list of donors to the Library is contained in annex IV to the present report.

XVII. Publications

131. The status of the Tribunal's publications was reviewed by the Committee on Library, Archives and Publications during the thirty-ninth and fortieth sessions of the Tribunal.

132. During the period under review, the following volumes were published:

(a) *ITLOS Reports of Judgments, Advisory Opinions and Orders 2014, Vol. 14*;

(b) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2013, Vol. 19*;

(c) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2013, Vol. 20*;

(d) *ITLOS Yearbook 2013, Vol. 17*;

(e) *Basic Texts 2015*.

XVIII. Public relations

133. During the period under review, the Committee on Public Relations gave consideration to a set of measures to disseminate information on the work of the Tribunal, including the celebration of the twentieth anniversary of the Tribunal, preparation of a promotional film on the Tribunal and participation by representatives of the Tribunal in international legal meetings. The Tribunal publicized its work by means of its website, press releases and briefings by the Registry, as well as through the distribution of its judgments, orders and publications.

134. The website can be accessed at: http://www.itlos.org and http://www.tidm.org. The texts of judgments and orders of the Tribunal and verbatim records of hearings are available on the website, together with other information about the Tribunal.

135. In 2015, judges and Registry staff members also delivered lectures and published papers on the work of the Tribunal.

XIX. Capacity-building activities

136. A number of capacity-building activities relating to the work of the Tribunal continued to be conducted in 2015.

A. Internship programme

137. The internship programme of the Tribunal, which was established in 1997, is designed to give participants the opportunity to gain an understanding of the work and functions of the Tribunal. Since 2004, funding has been available for applicants from developing countries to assist them in covering the costs incurred for travel to Hamburg and for participation in the programme. From 2004 to 2012, this financial assistance was paid from a trust fund established through a grant provided by the Korea International Cooperation Agency. Since 2012, the assistance has been paid from the trust fund for the law of the sea established by the Tribunal and from the China Institute of International Studies grant.

138. As at the end of 2015, a total of 310 interns from 93 States had participated in the programme, with 122 interns benefiting from funding.

139. During 2015, 15 persons from 15 different countries served periods of internship at the Tribunal. A list of participants in the internship programme during 2015 is contained in annex II to the present report.

140. Information on the programme and the application form are available on the Tribunal's website.

B. Capacity-building and training programme

141. In 2015, for the ninth time, a capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. The Nippon Foundation grant was set up in 2007 to provide capacity-building and training to fellows and assist them in covering the costs incurred by participating in the programme. During the programme, participants attend lectures on topical issues related to the law of the sea and maritime law and training courses on negotiation and delimitation. They also visit institutions working in the fields of law of the sea, maritime law and dispute settlement (inter alia, the International Court of Justice and the International Maritime Organization). At the same time, participants carry out individual research on selected topics. Information about the programme can be obtained from the Registry or from the Tribunal's website.

142. Nationals of Brazil, Georgia, Iran (Islamic Republic of), Liberia, Malaysia, Morocco and Senegal are participating in the 2015-2016 programme (July 2015-March 2016). A list of fellows is contained in annex III to the present report.

C. Regional workshops

143. The Tribunal has organized a series of workshops on the settlement of disputes related to the law of the sea in different regions of the world. The purpose of these workshops is to provide government experts working on maritime and law of the sea matters with insight into the procedures for dispute settlement contained in part XV of the Convention, with special emphasis on the jurisdiction of the Tribunal and the procedural rules applicable to cases before the Tribunal.

144. During 2015, a workshop organized by the Tribunal in cooperation with the Government of Indonesia and the Korea Maritime Institute was held in Bali on 27 and 28 August. The subject was the role of the International Tribunal for the Law of the Sea in the settlement of disputes relating to the law of the sea. Representatives from Cambodia, the Cook Islands, Fiji, Indonesia, the Lao People's Democratic Republic, Micronesia (Federated States of), the Philippines, Samoa, Singapore, Solomon Islands, Thailand, Timor-Leste, Tonga and Viet Nam attended the workshop.

D. Summer academy

145. The International Foundation for the Law of the Sea held the ninth summer academy at the Tribunal's premises from 26 July to 21 August 2015. The academy

focused on "Uses and protection of the sea — legal, economic and natural science perspectives". A total of 41 participants from 40 different countries attended lectures on issues relating to the law of the sea and maritime law. The lectures were given by judges of the Tribunal and by experts, practitioners, representatives of international organizations and scientists.

XX. Visits

146. During the period under review, the Tribunal received a number of visitors, including in particular holders of political office, diplomats, members of judicial authorities, senior government officials, researchers, academics and lawyers.

Annex I

List of staff members of the Registry as at 31 December 2015

A. Professional and higher categories

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Philippe Gautier	Registrar	Belgium	ASG	ASG
Doo-young Kim	Deputy Registrar	Republic of Korea	D-2	D-2
James Scharfer[a]	Head of Linguistic Services	France	P-5	P-5
Ximena Hinrichs	Senior Legal Officer/Head of Legal Office	Chile	P-5	P-5
Louis Savadogo	Legal Officer	Burkina Faso	P-4	P-4
Elzbieta Mizerska-Dyba	Head of Library and Archives	Poland	P-4	P-4
Kafui Gaba Kpayedo	Head of Personnel, Building and Security	Togo	P-4	P-4
Matthias Füracker	Legal Officer	Germany	P-4	P-4
Léonard Gaultier	Translator/Reviser (French)	France	P-4	P-4
Roman Ritter	Head of Budget and Finance	Germany	P-4	P-3
Alfred Gbadoe	Information Technology Officer	Germany	P-3	P-3
Jean-Luc Rostan	Translator (French)	France	P-3	P-3
Yara Saab	Legal Officer	Lebanon	P-3	P-3
Julia Ritter[b]	Press Officer	United Kingdom	P-2	P-2
Vacant	Associate Legal Officer		P-2	
Rosa Jimenez Sanchez	Associate Archivist	Spain	P-2	P-2
Svitlana Buergers-Vereschchak	Associate Administrative Officer (Contributions/Budget)	Ukraine	P-2	P-2
Antje Vorbeck	Associate Administrative Officer (Personnel)	Germany	P-2	P-2

Total posts: 18

[a] Mr. Scharfer retired on 31 December 2015.

[b] The post of Press Officer is occupied 50 per cent by the incumbent of the post, Ms. Ritter. The remaining 50 per cent is currently occupied by Benjamin Benirschke on the basis of an individual contract.

B. General Service

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Andreas Bothe	Building Coordinator	Germany	G-7	G-7
Anke Egert	Publications/Personal Assistant (Registrar)	Germany	G-7	G-7
Jacqueline Winkelmann	Administrative Assistant (Procurement)	Germany	G-7	G-7
Patrice Mba	Information Systems Assistant	Cameroon	G-7	G-7
Ellen Nas[a]	Personal Assistant (President)	Netherlands	G-6	G-6
Berit Albiez	Linguistic Assistant/Judiciary Support	Germany	G-6	G-6
Thorsten Naegler	Finance Assistant	Germany	G-6	G-6
Henrik Boeck	Administrative Assistant (Contributions)	Denmark	G-6	G-6
Elizabeth Karanja	Administrative Assistant	Kenya	G-6	G-6
Béatrice Koch	Linguistic Assistant/Judiciary Support	France	G-6	G-6
Vacant	Legal Assistant		G-6	
Gerardine Sadler	Administrative Assistant	Singapore	G-5	G-5
Emma Bartlett	Personnel Assistant	United Kingdom	G-5	G-5
Anne-Charlotte Borchert[b]	Personal Assistant (Deputy Registrar)	France	G-5	G-5
Svenja Heim	Library Assistant	Germany	G-5	G-5
Christoph Fusiek	Finance Assistant (Accounts Payable)	Germany	G-5	G-5
Sven Duddek	Senior Security Officer/Building Superintendent	Germany	G-4	G-4
Inga Marzahn	Administrative Assistant	Germany	G-4	G-4
Papagne Aziamble	Administrative Support/Driver	Togo	G-4	G-4
Chuks Ntinugwa	Security Officer/Driver	Germany	G-3	G-3

Total posts: 20

[a] Ms. Nas retired on 31 December 2015.

[b] The post of Personal Assistant (Deputy Registrar) is occupied 50 per cent by the incumbent of the post, Ms. Borchert. The remaining 50 per cent is currently occupied by Sylvie Fislage on the basis of a temporary appointment.

Annex II

Internship programme participants (2015)

Name	*State*	*Period*
Basant Abdel-Meguid	Egypt	October-December
Catherine Blanchard	Canada	October-December
Ounassa Boukhmis	Algeria	January-March
Charlotte Claes	Belgium	October-December
Nicolas Cordoba	Colombia	October-December
Cameron Dunning	United States	July-August
Anders Friisk	Norway	January-March
Saeed Hashemilalehabadi	Islamic Republic of Iran	July-September
Lucian Indries	Romania	April-June
Yang Liu	China	January-March
Sarah Lohschelder	Germany	June-August
Lydia Ngugi	Kenya	April-June
Yannick Roucou	Seychelles	July-September
Gynette Tomeba Mabou	Cameroon	April-June
Victor Ventura	Brazil	July-September

Annex III

Information on Nippon fellows (2015-2016)

M'hammed Abidi (Morocco), 24

Mr. Abidi holds a Bachelor of Laws (*Licence en droit*) and a Master's degree (*Master en droit public*) from the University of Fès, Morocco. Since January 2014, he has worked as a legal officer at the Ministry of Foreign Affairs. His task is to deal with the cases concerning the law of the sea and to provide legal advice.

Abdou Khadir Diakhate (Senegal), 32

Mr. Diakhate holds a Bachelor of Laws and a Master's degree (*Master 2 en droit public*) from the Cheikh Anta Diop University, Dakar. Currently, he is a programme assistant in the SRFC Department for the Harmonization of Fisheries Policies and Legislation. He also assists national administrations and professional organizations in the effective application of the Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under the Jurisdiction of the Member States of the Sub-Regional Fisheries Commission.

Joel Elkanah Theoway (Liberia), 28

Mr. Theoway holds a Bachelor of Laws from the University of Liberia. He has worked since 2013 in the Liberian Ministry of Justice as a staff attorney. He supports the Ministry by providing advisory opinions and reviewing treaties prior to ratification by the legislature. With the discovery of oil in Liberia, part of his responsibility is to check all concessions for the award of oil blocks.

Farzaneh Shakeri (Islamic Republic of Iran), 30

Ms. Shakeri holds a Master of Laws and a Bachelor of Laws from the University of Tehran. Since 2010, she has been engaged in PhD studies at the University of Tehran, focusing on international jurisdictions. Currently, she works as an attorney at law and as a research fellow for the Institute of Comparative Law.

Ahmad Mustaqim Shamsudin (Malaysia), 34

Mr. Shamsudin holds a Bachelor of Laws from the International Islamic University Malaysia. Since 2014, he has worked for the Royal Malaysian Navy as a legal officer. His main task is to advise the commanding officer on matters regarding the law of the sea. He is also conducting investigations and reviews on any cases of conflict on the law of the sea involving a Royal Malaysian Navy ship.

Kristina Rzgoeva (Georgia), 33

Ms. Rzgoeva holds a Bachelor of Laws in Jurisprudence from the Ivane Javakhishvili Tbilisi State University. She is currently completing a Master of Laws at the Grigol Robakidze University in Tblisi. Since 2012, she has worked as Head of the Legal Division of the Maritime Transport Agency of the Ministry of Economy and Sustainable Development of Georgia. Her main tasks are to conduct criminal and civil lawsuits, represent the Agency in court and draft new laws, contracts and trusts.

Leonardo De Camargo Subtil (Brazil), 29

Mr. De Camargo Subtil holds a law degree (*Bacharel em Direito*) from the Caxias do Sul University, Brazil, and a Master's degree (*Mestre em Direito*) from the Vale do Rio dos Sinos University, Brazil. At present, he is engaged in PhD studies at the University of Geneva. He is writing a thesis about the influence of the Pact of Bogota in the development of the rulings of the International Court of Justice.

Annex IV

List of donors to the Library of the International Tribunal for the Law of the Sea (2015)[a]

Ricardo Abello, Universidad del Rosario, Bogotá

Bundesamt für Seeschifffahrt und Hydrographie, Hamburg, Germany

Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, New York

European Court of Human Rights, Strasbourg, France

Mara Gómez Pérez, Hipodromo Condesa, Cuauhtemoc, Mexico

International Seabed Authority, Kingston

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

Korea Maritime Institute, Busan, Republic of Korea

Seokwoo Lee, Inha University Law School, Incheon, Republic of Korea

Mare, Die Zeitschrift der Meere, Hamburg, Germany

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Ministry of Foreign Affairs of Singapore, Singapore

Northwest Atlantic Fisheries Organization, Dartmouth, Canada

Marta Chantal Ribeiro, Faculdade de Direito, Universidade do Porto, Porto, Portugal

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Kiel, Germany

World Trade Organization, Geneva

[a] As at 31 December 2015.